IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 7838 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KISHORBHAI RAGHAVBHAI THRO' HIS BROTHER BHARATBHAI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 7838 of 2002

MR YOGESH S LAKHANI for Petitioner No. 1

MR S.S.PATEL, ADDL.PUBLIC PROSECUTOR for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 22/11/2002

ORAL JUDGEMENT

1. Rule. Learned APP Mr. Patel waives service of notice of rule. By this application, the applicant who is an accused before Sessions Court, Amreli (Fast Track Court) has prayed for modification/relaxation in condition imposed by this Court while being admitted to bail on ground of his own sickness and required psychiatrist treatment.

2. The case against the applicant is in progress before the Fast Track Court at Amreli and is now posted on 28th of this month. Majority of witnesses are examined, but since the applicant is advised to consult a psychiatrist by a local doctor as stated in the application and as revealed from the statement recorded by the Investigating Agency, he prays that he may be permitted to leave Amreli District till the tril is over or atleast some time.

3. Heard learned Advocate Mr. Dagli who has reiterated the said request. Mr. Patel, learned APP has opposed to this application. It transpires from the medical certificate issued by Dr. Dipa M. Jaypal, M.D of Amreli that the applicant suffers from acute headache not related to any physical cause and therefore an expert's opinion and management by a psychiatrist is required. The doctor in her statement dated Nov. 7, 2002 has also confirmed this aspect. Mr. Dagli states that the applicant is prepared to co-operate and appear before the Court on the next date and therefore the condition may be relaxed for some time. Considering the facts of the case, instead of deleting the condition if it is relaxed for some time, the ends of justice would be met. This Court is informed that 11 witnesses have already been examined by the Fast Track Court; there are in all 18 witnesses and some witnesses may be dropped and the trial therefore is nearing its end. Under the circumstances, the condition regarding not leaving Amreli District during the pendency of the trial is relaxed for a period upto 5th December, 2002, on condition that the applicant shall appear before the Court on the appointed date i.e. 28.11.2002 or any other date that may be fixed by the Court during this time. The condition shall continue to operate after 5.12.2002. Condition (d) regarding marking presence on 1st and 15th of every month shall also be relaxed for 1.12.2002 as a necessary consequence. Application is allowed. Rule is made absolute to the aforesaid extent. Direct service permitted.

(A.L.Dave, J.)

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